

No. 9/1/87-6Lab./8135.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the Workman and the management of M/s. Sameru and Sheri, 219, Industrial Area, Panchkula.

IN THE COURT OF SHRI K. K. DODA, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 210 of 1985

*between*

SHRI SHAMSHER SINGH, WORKMAN AND THE RESPONDENT-MANAGEMENT M/S, SAMERU AND SEHRI, 219, INDUSTRIAL AREA, PANCHKULA

#### AWARD

In exercise of powers conferred by clause (c) of sub-section 1 of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shamsher Singh, workman and the respondent-management of M/s. Sameru and Sehri, 219, Industrial Area, Panchkula to this Court for adjudication :—

Whether the termination of services of Shri Shamsher Singh is justified and in order? If not, to what relief is he entitled?

2. After receipt of the order of reference, notices were issued to the parties by my learned predecessor. Both the parties appeared. Shamsher Singh's case in brief is that he worked in the factory of the respondent as press man for about 8 months before his termination. He was terminated with effect from 20th April, 1985 illegally. Management had been practising anti-labour policy in the factory. The workers were compelled to do overtime work, for which no payment was made nor proper record was maintained. Labour laws were not implemented in the factory. The workers, thus decided to join the union and made a written Engineering representation before the General Secretary of the Industrial Workers Union on 6th April, 1985.

The workers held a meeting near the factory gate on 9th April, 1985 regarding demand for implementation of labour laws. The workers resolved to join union and accordingly the branch of Industrial workers union was constituted. The General Secretary wrote a letter by registered post on 10th April, 1985 informing the branch of the union and name of the office bearers. The management instead of conceding the request for implementation of labour laws to settle the disputes amicably, preferred to break the union by use of force and violence, and tried that the workers should leave the union. When the workers refused to do so the management used extreme violence on 17th April, 1985. Five workers of the union were beaten and their resignation were procured under pressure. Workers of the factory went to the police station same evening and reported the matter to the police. Next day the management threatened Shri Hakam Singh and others, that if they did not leave the union, they will be dealt with severely. This matter was also reported to the police. On 19th May, 1985 all the workers of the factory were gheraoed by 40 unknown persons. Mr. Negi directed all the five workers to write as would be dictated one by one and sign papers placed before them. The workers were threatened for their life, if they did not act accordingly. On 20th April, 1985 when most of the workers were taken on duty he (Shamsher Singh) along with some other workers was not allowed to join duty. Thus, he was terminated from his service. He termed his termination un-justified and illegal. He alleged that he has been victimised for his trade union activities as he was active member of the Sameru and Seri branch of Engineering Industries Workers Union.

3. The respondent-management repelled the contentions and allegations of the worker. Asserted that the workman had not completed 240 days of service. On this score only also the reference in question is bad. Further made clear that the worker had submitted his resignation on 20th April, 1985. The worker was asked to attend the factory on 4th May, 1985. The workman did attend and got his dues on 4th May, 1985. He had requested for issuance of experience certificate and same was issued on 4th May, 1985. He had appended signatures having received the certificate. Nowhere the workman was asked to work on overtime, for the reason that during the period prior to 1985 there was severe cut in power and electricity supply was uncertain. The management was and is fully complying with industrial laws which are applicable. There had never been any complaint of such nature from any concerned department. The factory functioned normally on 9th April, 1985. Relationship between the workers and the management were always cordial, but the workman had resigned, resignation were accepted and dues were paid. All the allegations against the management are false and baseless. On 17th April, 1985 also the factory functioned normally. No worker was manhandled nor was force to give resignation. Some employees of the factory were obstructed and were not allowed to attend the factory. Some miscreants had threatened some willing workers of the factory by telling them that if they attended the factory then they would be beaten. The management had lodged F.I.R. with the police in this respect. On 19th May, 1985 again the factory functioned properly and no untoward incident had happened. On 19th May, 1985 some workers approached the management and

submitted their resignations. Workman's resignation was accepted and he was asked to attend the factory on 4th May, 1985 so that his dues are paid. The workman attended and received his dues on 4th May, 1985. So much so that the worker had obtained experience certificate also.

4. Following issues were laid down on 25th July, 1986 by my learned predecessor for decision :—

- (a) Whether termination of service of workman is illegal and justified ? If so its effect ? (OPM)
- (ii) Whether the claim statement has not been signed by the workman ? If so its effect ?
- (iii) Relief ?

5. This case come up before me for the first time on 10th June, 1987, after I took over the charge. The case was pending for remaining evidence on behalf of the workman. The workman was given last opportunity to produce his remaining evidence on 25th August, 1987. It was further ordered that *dusty* summons of summoned witness may be obtained.

Shri Abhey Singh, represented the workman. Shri R. L. Chopra represented the management.

On 25th August, 1987 no evidence on behalf of the workman was produced. Shri Abhey Singh, W.R., gave to understand that the workman was not interested in pursuing this reference. There was no good ground for adjournment. Workman's evidence was closed by order. Shri R.L. Chopra, produced documents Ex. M-1 to M-5 and closed evidence on behalf of the respondent-management.

6. I have gone through the entire material on record. Opportunity of hearing was also given that learned representatives of both the parties. Since the workman has not dared giving his own evidence in support of his own case. Therefore it is not necessary to give separate findings on both the issues. The learned representatives of both the parties have admitted, that evidence of Shri Ramji Lal recorded on 15th April, 1987 was of no use to either of the parties. I agree to it. Shri Ramji Lal had simply deposed that a complaint received in the office of Labour Inspector, Ambala was sent to Labour Inspector, Panchkula for enquiry. There is no other evidence on record, On basis of which it could be held that the workman was terminated for his workers union activities against the management. The workman has miserably failed to prove that he had completed 240 days of service. On the other hand documents. Ex. M-1 shows and prove that the workman had submitted his resignation on 20th April, 1985. This document purports to have been signed by the workman. Then the voucher Ex. M-2 proves this fact that the workman had received his dues on 4th May, 1985, after about 14/15 days he had submitted his resignation. Documents Ex. M-3 speaks that the workman had obtained his experience certificate, according to which he had worked from 1st October, 1984 to 19th April, 1985 with the respondent-management.

7. As a consequence of discussion made above, issue No. 1 is decided against the workman and issue No. 2 is decided against the management. In the result, it is held that the workman was not terminated but he had himself resigned of his job. Reference is answered accordingly.

K. K. DODA,

The 2nd September, 1987.

Presiding Officer,  
Labour Court, Ambala.

Endorsement No. 1954, dated the 21st September, 1987

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under Section 15 I.D. Act.

K. K. DODA,  
Presiding Officer,  
Labour Court, Ambala.

No. 9/1/87-6Lab./8138.—In pursuance of the provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the Workman and management of M/s. The Haryana Dairy Development Cooperative Federation Limited. Milk Plant, Ambala City:—

BEFORE SHRI K. K. DODA, PRESIDING OFFICER, LABOUR COURT AMBALA  
Old Reference No. 160 of 1982

New R-299/84  
between

SHRI RAM CHANDER, WORKMAN AND THE RESPONDENT-MANAGEMENT OF  
M/S THE HARYANA DAIRY DEVELOPMENT COOPERATIVE FEDERATION LIMITED,  
MILK PLANT, AMBALA CITY.

## AWARD

In exercise of the powers conferred by clause (d) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Ram Chander, workman and the respondent-management of M/s. The Haryana Dairy Development Cooperative Federation Limited, Milk Plant, Ambala City to this Court, for adjudication :—

Whether the termination of services of Shri Ram Chander is justified and in order? If not, to what relief is he entitled?

2. Notices to both the parties were issued. Both the parties appeared and filed their pleadings. Ram Chander's case is that he was working in respondent Milk Plant from 11th March, 1979 to 26th August, 1981 as Lab. Attendant. He alleged that he was terminated from service with effect from 26th August, 1981 illegally. No charge-sheet was issued nor any enquiry was held. Provisions of Chapter 5-A of the Industrial Disputes Act, 1947 were not followed. Further that his retrenchment is unfair labour practice, victimisation and *mala fide*. The respondent-management contended that the workman was appointed as helper on daily wages @ Rs. 8 per day and his appointment was of temporary and he was liable to be dismissed dispensed with at any time without giving any notice and assigning any reasons. Subsequently the workman was appointed for 30 days only from time to time and on the same terms and conditions. The workman had accepted the terms and conditions. The workman joined his service on 19th January, 1981 after the illegal strike. He had not got more than 240 days of continuous service to his credit. Following issue was framed on 12th October, 1981 by my learned predecessor :—

(i) As per reference...

3. Both the parties obtained effective opportunities to put and prove their respective contentions. The workman Ram Chander appeared in the witness box and examined Balwant Singh. He had relied upon orders Exhibit A/1, A/2, A/3 and A/4, —vide which he was appointed from time to time for 30 days. It is stated in these orders that his appointment was purely on temporary nature and could be dispensed with at any time without any notice and assigning any reason. However, Exhibit A/5 speaks that the workman was appointed on daily wages @ Rs. 10 per day with effect from 1st December, 1979. It was further made clear in the order that he will continue to work on daily wages as long as his services are required and his conduct remained satisfactory. Further, that his services were liable to be dispensed with at any time without giving any notice or assigning any reason. On the other hand, management examined Shri P. K. Malhan, who proved copy Exhibit M-1 of his complaint dated 14th August, 1981 against the workman Shri Ram Chander M-2; Shri Pawan Kumar, Clerk, Haryana Dairy, supported the cause and pleas of the respondent-management.

4. Shri R. S. Saini represented the workman. Shri Devinder Mohan Singh represented the management. I have gone through the entire material on record with requisite anxiety. The learned representatives of both the parties were also heard to their satisfaction. My findings with the reasons are as under :—

5. Issue No. 1.—The workman has not been able to prove that he worked with the respondent-management continuously for 240 days or more preceding the reference in question Exhibit A/1, A/2, A/3 and A/4 have proved that the workman was appointed on daily wages from 11th March, 1979 for the period of 30 days from 31st July, 1979 for 30 days, from 29th August, 1979 to 31st October, 1979, and from 1st November, 1979 to 30th November, 1979. It means he was appointed for 4 different months accordingly. No doubt that Exhibit A/5 speaks that he was appointed on daily wages as Lab. Asstt. with effect from 1st December, 1979 onwards but there is no proof record that he worked continuously till 26th August, 1981, the admitted date of his termination. The respondent-management has clearly stated in its written statement that the workman joined his service on 19th January, 1981 after illegal strike and that he had not got more than 240 days service to his credit. It is strange enough that workman in his cross-examination expressed his ignorance about the strike and the period of strike. More strange enough that the witness Shri Balwant Singh stated that he was not at the station in 1980-81 and thus, he could not say whether there was any strike in the Milk Plant. The workman himself admitted in his cross-examination that he was not in possession of letter of his appointment regarding the intervening periods. Pawan Kumar [MW-2] made clear that there was no strike and that he worked continuously and had drawn pay up till 28th August, 1981. Suffice it to say that the workman has failed to prove that he worked continuously for 240 days or more preceding the reference in question. Moreover, it stands proved from Exhibit M-1 that the workman had misbehaved with Shri P. K. Malhan, C. O. on 14th August, 1981. Significantly, Shri P. K. Malhan has appeared as MW-1 but the workman did not dare putting him any question challenging the genuineness of his complaint Exhibit M-1. So it stands established that workman had not only misbehaved with Shri P. K. Malhan but had threatened him with dire consequences also. The evidence of Shri P. K. Malhan goes un-changed and un-rebutted.

Consequently it is held that the termination of workman Shri Ram Chander was legal, in order and according to the terms and conditions and his appointment. He is not entitled to any relief.

Reference is, thus, answered accordingly.

Dated the 7th September, 1987.

K. K. DODA,

Presiding Officer,  
Labour Court, Ambala.

Endst No. 1958, dated the 21st September, 1987.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under section 15 of I. D. Act.

K. K. DODA,

Presiding Officer,  
Labour Court, Ambala.

No. 9/1/87-6Lab./8139.—In pursuance of the provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the Workman and the management of M/s Ambika Spinners, Industrial Area, Panipat.

BEFORE SHRI K. K. DODA, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 124 of 1986

*between*

SHRI PREM PARKASH, WORKMAN AND THE RESPONDENT-MANAGEMENT OF  
M/S AMBIKA SPINNERS, INDUSTRIAL AREA, PANIPAT

#### AWARD

This industrial dispute between the workman Shri Prem Parksash and the respondent-management of M/s Ambika Spinners, Industrial Area, Panipat has been referred to this Court by the Hon'ble Governor of Haryana,—*vide* his order No. 2411-16, dated 11th July, 1986 under Section 10(1)(c) of Industrial Disputes Act, 1947 for adjudication. The terms of reference are :—

Whether termination of services of Shri Prem Parkash was justified and in order ? If not to what relief he is entitled ?

2. Both the parties, in response to the notices, put in appearance. Workmans' case in brief is that he worked as Chataiman with the respondent-management continuously for one year but he was terminated on 6th February, 1986 without notice or charge-sheet or for any other cause. He had met with an accident on 23rd November, 1985 while on duty and had sustained injury also. He prayed for reinstatement with continuity of service and back wages. Respondent-management contested the petition in the terms of written statement filed on 5th September, 1986 through Shri Nand Lal Kalra, pleaded that respondent had no connection with the workman and the reference in question is bad.

3. Following issues were settled by my learned predecessor :—

(i) whether termination order is un-justified and incorrect ? If so, its effect ?

(ii) Relief ?

4. Shri Prem Parkash, workman appeared in witness box and relied upon document Exhibit A/1 to Exhibit A/4. Shri Vinod Kalra, Manager, M/s Shree Ambika Spinners, Panipat appeared as MW-1 and placed reliance upon a certificate Exhibit R/1 issued by the Devesh Woollen Mills, Panipat. Shri Karan Singh represented the workman. Shri S. Kaushal represented the respondent. I have gone through pleadings and evidence on record. Opportunity of hearing was given, to the learned representatives of both the parties. My finding on the issue with the reasons are as under :—

5. *Issue No. 1.*—The workman Shri Prem Parkash has not been able to prove that he worked with the respondent-management for the period of one year as alleged by him. Photo stat copies of attendance book (Exhibit A/42 to Exhibit A/4) produced by him indicate his attendance/absence in November, 1985 and January, 1985. Significantly, the name of industry given in these copies is Super Ambika Mills. Shri Vinod Kalra Manager of M/s Shree Ambika Spinners, Panipat has denied that these were issued or maintained by the management of M/s Shree Ambika Spinners, Panipat. Exhibit A/1 is the photo stat copy of the letter issued by the authorities of E.S.I. on 7th April, 1986. This letter does not help the workman in proving that he worked with the respondent for the period of one year or more. No other document has been produced by the workman Prem Parkash. Shri Vinod Kalra made clear in his evidence that Prem Parkash was employed on 17th November, 1985 on daily wages and he had worked for 6 days only. Further he has stated that workman had sustained injury in an accident in his premises on 23rd November, 1985. Prem Parkash did not work in the month of December, 1985. However, Prem Parkash worked for 7 days in January, 1986. Prem Parkash absented from duty from 23rd January, 1986 onwards; nor did he attended to his duty in February, 1986. Further he made clear that E.S.I. continuation for the period, the workman worked was subscribed on-prescribed from No. 6 against his old E.S.I. Code No. 5200383. According to Shri Vinod Kumar, the workman worked with M/s Shree Ambika Spinners for 15 days only and that too on daily wages. According to Exhibit R/1 proved by Shri Vinod Kalra. Prem Parkash workman worked with M/s Devesh Woollen Mills, Panipat from January, 1985 to June, 1985 and his E.S.I. number was 5200383. Suffice it to say that workman has not been able to establish, by producing reliable oral or documentary evidence, that he had worked with the respondent-management for the period of one year or more. However, evidence on record has proved that the workman Prem Parkash had worked with the respondent for few days and then he abandoned his job at his own accord.

6. Consequently, issue No. 1 is decided against the workman and it is held that he had worked with the respondent-management for 15 days only and had abandoned his job at his own accord by absenting himself from 23rd January, 1986 onwards.

7. As a consequence of finding on issue No. 1 it is held that Shri Prem Parkash was not terminated or retrenched but he had himself, after working with the respondent-management for 15 days only, had abandoned his job at his own accord.

Reference is, thus, answered accordingly.

The 9th September, 1987.

K. K. \* DODA,  
Presiding Officer,  
Labour Court, Ambala.

Endstt. No. 1959, dated 21st September, 1987.

Forwarded (four copies) to the Commissioner and Secretary to Government Haryana, Labour and Employment Department, Chandigarh as required under section 15 of Industrial Disputes Act.

K. K. DODA,  
Presiding Officer,  
Labour Court, Ambala.

No. 9/1/87-6 Lab/8140.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of M/s R.D. Alloys, Udangarh, Jagadhri.

BEFORE SHRI K. K. DODA, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 15 of 1985

Between

SHRI RANBIR SINGH, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S R.D. ALLOYS, UDAMGARH, JAGADHRI

#### AWARD

The Hon'ble Governor of Haryana is exercise of powers, conferred by clause (c) of sub-section (i) of section 10 of Industrial Disputes Act, 1947, referred the dispute between Ranbir Singh, workman and the respondent management of M/s R.D. Alloys, Jagadhri to this Court. The terms of reference are as under :—

“Whether the termination of services of the workman were justified and in order? If not to what relief is he entitled?”

2. Ranbir Singh's case in brief is that he was working with the respondent-management for the last one year, on 21st December, 1983, while on duty, he broke his right arm when an angle iron on which the weighing scale was hanging had fallen down. As a result, he was taken to Lall Maternity and General Hospital, Yamuna Nagar. He alleged that he was terminated from his service illegally. He prayed for reinstatement with continuity of service and back wages. Respondent-management has denied the contentions and allegations, of the workman. Pleaded that the workman was never employed and, as such, there had been no relationship of master and servant. Since the workman was not under the employment of the respondent, therefore, question of his termination did not arise.

3. Following issues were laid down on 17th December, 1985/26th February, 1986 by my learned predecessor for decision :—

- (i) Whether termination of the workman is illegal and unjustified ? If so its effect ?
- (ii) Relief ?

4. Ranbir Singh workman stepped in witness box on 2nd September, 1986 and reliance was placed upon copy EW. A.1 of the complaint dated 19th February, 1984 submitted by Yadu Ram and 5 others on S.H.O.P.S. Jagadhri, Copy Ex. A/2 of the complaint dated 20th February, 1984 sent to S.P. Ambala, postal certificate, A/3 prescription issued by Lall Maternity and General Hospital, Yamuna Nagar in the name of the workman, letter dated 21st February, 1984 ; Ex. A.5 sent by Labour-cum-Conciliation Officer to the workman and Ex. A.6 order dated 20th February, 1984 passed by Labour-cum-Conciliation Officer, Yamuna Nagar. Shri Prem Sagar, Partner of the respondent-management appeared as a witness on 30th October, 1986. He had brought along with him attendance register from 1st April, 1983 to 31st March, 1984.

5. After having going through the entire record and on hearing the learned representatives of both the parties my findings on the above issues with the reasons are as under :—

6. *Issue No. 1.*—There is no *iota* of evidence on record in proof of this fact that the workman ever worked as a labourer or in any other capacity with the respondent-management. The documents Ex. A/1 to A/6 as narrated above, do not help in arriving out this conclusion that the workman ever worked with the respondent-management. Shri Prem Sagar, Partner of the respondent-management, had brought attendance record for the period from 1st April, 1983 to 31st March, 1984. He made clear that the workman never worked with the respondent management. Further he made clear that the workman in fact worked with Kumar Steel but was residing in his quarter as a tenant. Further that the workman filed this case against the respondent-management on the investigation of M/s. Kumar Steel which is run by his relatives and with whom he has strained relations. I find no good ground to disbelieve Shri Prem Sagar, specially when the workman has no reliable evidence with him to prove that he had ever worked with the respondent-management.

7. Consequently, it is held that there was no relationship of employer and employee between Ranbir Singh and M/s R.D. Alloy, Jagadhri. So the question of termination of services of the workman Ranbir Singh as such, by the respondent did not arise. Issue No. 1 is accordingly, decided against the workman.

8. *Relief.*—As a consequence of finding on issue No. 1 against the workman, it is held that there was no relationship of employee and employer between Shri Ranbir Singh and M/s R.D. Alloys, Jagadhri. There is no Industrial Disputes between the parties. Reference in question is answered accordingly.

Dated 9th September, 1987.

K. K. DODA,

Presiding Officer,  
Labour Court, Ambala.

Endstt. No. 1960, dated the 21st September, 1987.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh. is required under section 15 of the Industrial Disputes Act.

K. K. DODA,

Presiding Officer,  
Labour Court, Ambala.

No. 9/1/87-6 Lab./8141.—In pursuance of the provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of M/s. General Manager, Haryana Roadways, Yamuna Nagar.

BEFORE SHRI K.K. DODA, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 186 of 1986

between

SHRI HARI OM, WORKMAN AND THE RESPONDENT-MANAGEMENT OF GENERAL  
MANAGER, HARYANA, ROADWAYS, YAMUNA NAGAR

## AWARD

In exercise of powers conferred by clause (d) of Sub-Section (1) of Section 10 of the Industrial Disputes Act, 1947 the Hon'ble Governor of Haryana referred the following dispute between Shri Hari Om, workman and the respondent-management of M/s. General Manager, Haryana Roadways, Yamuna Nagar to this Court for adjudication :—

Whether termination of the services of Shri Hari Om is justified and in order ? If not, to what relief is he entitled ?

On receipt of the reference, notices were issued to both the parties. In response thereof, workman filed his claim statement. He contended that he joined the respondent five years back (from the date of termination of service) on a permanent job of water man/Chowkidar. His services were terminated on 16th September, 1985. He termed his termination as un-justified, improper and illegal. He alleged that provisions of Section 25-F were never followed by the respondent. He sought reinstatement with continuity in service with full back wages.

2. Respondent General Manager, Haryana Roadways, Yamuna Nagar, resisted the claim of the workman. Pleaded, that the workman was appointed for the first time on 15th September, 1980 to 30th September, 1980 on daily wages for specific period, — vide order dated 16th October, 1980 (Exhibit M-1) last appointment was given to the applicant on 1st September, 1985 to 30th September, 1985 as a chowkidar on daily basis, — vide No. 4780 ECM, dated 9th September, 1985 (Exhibit M-2). As a matter of fact, on the arrival of candidate sponsored through Zila Sanik Board, the services of the applicant were discontinued being no longer required, — vide order dated 4993/ECM, dated 16th September, 1985 (Exhibit M-3). It was done in pursuance of the term and conditions of appointment order. Applicant was being appointed as chowkidar on daily wages for specific period with effect from 15th September, 1980 to 1st September, 1985. For the last time applicant workman was appointed for a specific period on daily wages and his services were terminated in terms accordance with the stipulated in his appointment letter. Hence Section 25-F of the Industrial Disputes Act, 1947 was not applicable.

3. Workman filed replication controverting the plea taken by the management and reiterated his claim. Following issues were laid down on 8th January, 1987 by my learned predecessor :—

(i) Whether termination of workman is unjustified and in correct ? If so, its effect ? (OPW).

(ii) Relief ?

4. Workman Hari Om appeared in the witness box supported his case. Respondent examined Shri Baljit Singh, Clerk, Haryana, Roadways, Yamuna Nagar. Raliance has been pleaded on documents Exhibit M-1 to M-3.

5. Shri Madhu Sudan, represented the workman. Shri Ram Kant, A.D.A. represented the Haryana Roadways Yamuna Nagar. My findings on the issue with the reasons are as under :—

6. Issue No. 1.— After going through the entire record and upon hearing the learned representatives of both the parties, I have come to this firm view that retrenchment of workman Hari Om cannot be termed as legal and justified. Reasons are very few and simple. It stands proved is from the evidence of MW-1 Shri Baljit Singh, Clerk, Haryana Roadways, Yamuna Nagar read together with the contents of Exhibit M-1, M-2 and statement of the workman Hari Om that the workman had worked with the respondent continuously for more than one year. As a matter of fact, Shri Hari Om workman worked as Chowkidar with the respondent from 15th September, 1980 to 9th September, 1985. It is true that the workman initially was appointed for 15 days on daily wages, — vide Exhibit M-1 dated 16th October, 1980, but it is clear that subsequently his tenure of services was being extended from time to time. By no stretch of imaginations. It can be said that there was any contract of employer between the employer and the workman. Rather, it is clear that tenure of service of workman Hari Om was being extended from time to time and he worked with the respondent-management as chowkidar for more than five years i.e. from 15th September, 1980 to 9th September, 1985. There is no such document on record on the basis of which it could be held there was any written contract (mutual) between the workman and the Management, — vide which the workman was employed for some specific period. It was the respondent who was extending tenure of service of the workman from time to time after the day he was initially appointed as chowkidar, — vide order Exhibit M-1 dated 16th October, 1980. It is true that the respondent has appointed some candidate who were sponsored through Zila Sainik Board, but it was necessary for the respondent to comply with the provisions of Section 25-F and 25-N, (amended) of the Industrial Disputes Act, 1947 before causing the retrenchment of the workman Hari Om. No such procedure was followed by the respondent-management. Moreover, the rule of last come first go was observed by the respondent, while causing retrenchment of the workman Hari Om. I do not agree with the contentions of the

respondent-management that present case is covered by the Section 2(00)(bb) of the Industrial Disputes Act, 1947. As a consequence of observations made above Issue No. I is decided in favour of the workman and it is held that termination of his services by the respondent-management is illegal and unjust. The workman Hari Om is legally entitled for reinstatement with continuity of service and full back wages also.

7. Relief.—In view of finding on issue No. I in favour of the workman, it is held that the workman Hari Om is entitled for reinstatement with continuity of service and with full back wages also.

Reference is answered accordingly.

Dated : 9th September, 1987.

K. K. DODA

Presiding Officer,  
Labour Court, Ambala.

Endorsement No. 1961, dated 21st September, 1987.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under section 15 of I.D. Act.

K. K. DODA,

Presiding Officer,  
Labour Court, Ambala.

No. 9/1/87-6Lab./8142.—In pursuance of the Provision of section 17 of the Industrial Disputes Act, 1947 (Central Act, No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of M/S (i) Secretary, Haryana, State Electricity, Board, Chandigarh (ii) Xen (OP) H.S. E.B. Ambala Cantt:—

BEFORE SHRI K.K. DODA, PRESIDING OFFICER, LABOUR COURT, AMBALA.

Reference No. 270 of 1985

*between*

SHRI JAGDISH PARSHAD, WORKMAN AND THE RESPONDENT-MANAGEMENT SECRETARY,  
HARYANA STATE ELECTRICITY BOARD, CHANDIGARH; (ii) XEN, (OP) H.S.E.B.,  
AMBALA CANTT.

*Present:—*

#### AWARD

In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Hon'ble Governor of Haryana referred the following dispute between Shri Jagdish Prakash and the respondent-management of Secretary, H.S.E.B, Chandigarh, (ii) Xen (Op.) H.E.S.B, Ambala Cantt. to this Court for adjudication :—

Whether the termination of services of Shri Jagdish Parkash is justified and in order? If not, to what relief is he entitled?

2. On notices being given, the parties appeared and filed their respective pleadings. Jagdish Parshad's case stated in his demand notice dated 23rd July, 1985 is that he joined as labourer on dai'y basis on 5th November, 1979 and was working in Babyal Sub-Division with the respondent-management. On 2nd November, 1980 he met with an accident while on duty. He was discharged from Civil Hospital, Ambala Cantt. and was allowed to join duty after about one week. He did not full recover. There was constant pain in his back. He proceeded on leave on 4th May, 1982 and remained under the treatment of Gopal Dutt in Hakim from 6th May, 1982 to 18th December, 1984. After recovery he reported for duty on 20th December, 1984, but was not allowed to join on the plea that his services stood terminated. He termed his termination as illegal, arbitrary, against the provisions of Section 25-F of Industrial Disputes Act, 1947 and contended that principal of last come first go was not observed and principles of natural justice were not followed. Respondent-management, while contesting the cause and claim of the workman in terms of written



statement filed on 30th January, 1986, stated that the workman resumed duty as per medical certificate issued by Medical Officer, Civil Hospital, Ambala Cantt. dated 11th November, 1980 and worked up to 3rd May, 1982. Asserted that the workman absented himself from duty from 4th May, 1982 without any leave or permission of the competent authority and did not turn up on the work to join duty till the date of demand notice. Respondent contended that the petitioner workman had left the job without any intimation at his own accord. He never informed that he was suffering from pain and was under treatment, as alleged. Petitioner abandoned his services willfully and at his own accord. Petitioner was simply a daily wages worker and, as such, he was not allowed any kind of leave. Pleaded that the reference is bad for laches and delays, for the reasons that the demand notice filed on 23rd July, 1985 after more than 3 years. Further that the reference is bad for mis-joinder and non-joinder of parties.

3. Following issues were laid down on 4th February, 1986 by my learned predecessor:—

- (i) Whether termination order in question is illegal? If so its effect?
- (ii) Whether reference is bad for mis-joinder and non-joinder of proper parties? (OPM)
- (iii) Whether the reference is barred by Section 82 of Electricity Act? (OPM)
- (iv) Whether demand notice is barred by the delays and laches? (OPM)
- (v) Relief?

4. Petitioner Shri Jagdish Parshad appeared on 21st March, 1986 and reliance was placed upon experience certificate Ex. A/1, and photostat copy mark A of medical certificate issued by a Hakim of U.P. Respondent examined Shri Girdhari Lal, UDC, H.S.E.B., (OP.) Division, Ambala Cantt. and Shri Sajjan, J.E. H.S.E.B., (OP.) Division, Ambala Cantt. Reliance has been placed upon photostat copy Ex. M-1, dated 11th November, 1980 issued by Medical Officer, Civil Hospital, Ambala Cantt.

5. Shri Rajeshwar Nath, represented the workman and Shri P.S. Sharma represented the respondent. I have gone through the entire material on record. The learned representatives of both the parties have also been heard. My findings on the issues with the reasons are as under.

6. **Issue No. 1 and 4.**—Issue No. 1 and 4 are linked with other. So I deem it proper to discuss them at one place. It stands proved from oral evidence of both the parties read together with experience certificate Ex. A/1 that the petitioner Jagdish Parshad had worked with the respondent from November, 1979 to May, 1982 i.e. for 851 days as casual labour. It is also an admitted fact that the workman had sustained injury on 2nd November, 1980 in an accident while on duty. Ex. M-1 has proved that the petitioner Shri Jagdish Parshad was found fit on 11th November, 1980 to resume his duty and he had no loss in his earning capacity. In other words, on 11th November, 1980, workman Jagdish Parshad was in a fit condition to resume his duty. It is also clear from evidence of both the parties that the workman did work from 11th November, 1980 up till 3rd May, 1982. Now the case of workman is that he could not join his duty from 4th May, 1982 for the reasons that he was having pain and was unable to work. On the other hand, respondent has pleaded that the workman abandoned his job and did not report for duty from 4th May, 1982 onwards. Petitioner workman had miserably failed to prove that he was really unfit to resume duty or that he had sent any application for leave of medical grounds. So much so, that the workman could not prove genuineness and authenticity of the medical certificate mark 'A' issued by a Hakim of U.P. It is further, clear that the petitioner had no correspondence with the respondent from 4th May, 1982 up till the day of 23rd July, 1985 when he submitted his demand notice. It means that the petitioner workman remained silent from 4th May, 1982 to 23rd July, 1985 for a period of more than 3 years. The only presumption which can be drawn is that the workman himself absented and abandoned his job from 4th May, 1982 at his own accord. In other words, petitioner workman was not terminated. He had himself abandoned his job at his own accord. In these circumstances, respondent cannot be blamed for not taking the petitioner/workman his job.

7. As a consequence of discussions made above, issue No. 1 is decided against the workman and it is held that he had himself abandoned his job and has retired himself. Demand notice dated 23rd July, 1985 filed by the workman is also bad on the ground of delay and laches.

Issue No. 4 is accordingly decided in favour of the respondent-management.

8. **Issue No. 2 and 3.**—No arguments were addressed by learned representatives of the parties. I find no such legal defect in maintainability of the reference in question. Both the issues are decided against the management.

10. **Relief.**—Consequent upon the findings on the aforesaid issues, it is held that the petitioner was not terminated but, he had himself abandoned his job and had retired himself from the service at his own accord.

from 4th May, 1982 on wards. Demand notice, dated 23rd July, 1985 submitted by him after more than three years is bad on the ground of delays and laches. Petitioner workman is not at all entitled for reinstatement or any other relief.

Reference is question is answered accordingly.

Dated 9th September, 1987.

K. K. DODA,

Presiding Officer, Labour Court,  
Ambala.

Endst. No. 1962. dated the 21st September, 1987.

Forwarded (four copies), to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of Industrial Disputes Act.

K. K. DODA,

Presiding Officer,  
Labour Court, Ambala.

No. 9/1/87-6Lab/8146.—In pursuance of the Provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XI of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the Workman and management of M/s Golden Weavers-cum-Sale Production Co-operative Society Ltd., G. T. Road, Panipat.

BEFORE SHRI K. K. DODA, PRESIDING OFFICER, LABOUR COURT,  
AMBALA

Reference No. 258 of 1984

*between*

SHRI BABU RAM, WORKMAN AND THE RESPONDENT-MANAGEMENT OF  
M/S. GOLDEN WEAVERS-CUM-SALE PRODUCTION CO-OPERATIVE SOCIETY  
LTD., G. T. ROAD, PANIPAT.

Present :—

Shri Karan Singh, A.R.

#### AWARD

This award disposes off reference sent by the Hon'ble Governor of Haryana, under Section 10(1)(c) of the Industrial Disputes Act, 1947, to this Court, where in the question for Adjudication was :—

Whether the termination of services of Shri Babu Ram was justified and in order ? If not to what relief is he entitled ?

The workman did file claim statement and respondent filed written statement thereto. Issues were framed on 20th August, 1981, by the then learned Presiding Officer, Labour Court. Ultimately, there was no compromise between both the parties. Shri Karan Singh, authorised representative of the workman has given a statement today that the workman since has settled his dispute with the management, therefore, he did not want to persue this case. Because there is no more dispute between the workman and the management.

Therefore, this reference has become infructuous and it is answered accordingly.

Dated the 10th September, 1987.

K. K. DODA,

Presiding Officer,  
Labour Court, Ambala.  
Camp at Panipat.